IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 3RD APRIL 2007 / 13TH CHAITHRA 1930

WP(C).No. 10351 of 2007(G)

PETITIONER:

BUSHRA SULEKHA,WARD NO.9,H.NO.190,
THADATHARIKATHU VEEDU,PANAVOOR VILLAGE,PANAVOOR P.O,NEDUMANGAD,THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.P.GOPALAKRISHNAN NAIR

RESPONDENTS:

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1. PANAVOOR GRAMA PANCHAYATH REPRESENTED BY ITS SECRETARY,GRAMA PANCHAYATH OFFICE,PANAVOOR, PANAVOOR P.O,NEDUMANGAD,TRIVANDRUM.

2. GOPALAKRISHNAN NAIR,PRESIDENT,PANAVOOR GRAMA PANCHAYATH,GRAMA PANCHAYATH OFFICE,PANAVOOR, PANAVOOR P.O,NEDUMANGADU TRIVANDRUM.

3. SREERAMAN NAIR,VICE PRESIDENT,PANAVOOR GRAMA PANCHAYATH,GRAMA PANCHAYTH OFFICE,PANAVOOR, PANAVOOR P.O,NEDUMANGADU,TRIVANDRUM.

4. MUBARAKA HASSAN,WARD NO.8,H.NO.244, ROADARIKATHU VEEDU,PANAVOOR VILLAGE,PANAVOOR P.O, NEDUMANGAD,THIRUVANANTHAPRUAM.

ADDL 5. THE KERALA STATE ELECTION COMMISSION, TRIVANDRUM.
(IMPLEADED SUO MOTU AS ADDL. 5TH RESPONDENT AS PER ORDER DT.26.03.2007)

ADDL. R5 BY ADV. SRI.MURALI PURUSHOTHAMAN, SC,K.S.E.COMM
R1 BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No. 10351 OF 2007

Dated this the 3rd day of April, 2007

JUDGMENT

It is submitted at the Bar that subsequent to the filing of the Writ Petition, election appeal No.6 of 2007 was preferred by the 4th respondent before the Principal District Court, Thiruvananthapuram and that the said Court has passed an order permitting the 4th respondent to participate in the meetings without any voting rights. Mr. M.Sreekumar, invited my attention to Section 152(5) of the Panchayat Raj Act and submitted that the order passed by the District Court will not amount to stay and therefore it is to be clarified that the petitioner will not entail any disqualification for the purpose of Section 152(5) on the ground that he has not assumed office without sufficient cause and not taken oath within a maximum period of 30 days from the day the judgment was delivered by the Election Tribunal. Considering the facts, I am of the view that such a clarification is warranted in this case. Accordingly, it is clarified that the writ petitioner who has been declared elected by the election tribunal will not entail disqualification under Section 152(5) of the Panchayat Raj Act since the District Court has permitted the 4th respondent notwithstanding the order of the Election Tribunal to attend the meetings of the Panchayat. The writ Petition itself will stand

disposed of directing the Principal District Court, Thiruvananthapuram to give top priority to Election Appeal No.6 of 2007 and dispose of the same at the earliest and at any rate within two months of the re-opening of the Court after mid summer vacation.

PIUS C. KURIAKOSE, JUDGE

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